UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	X
SECURITIES AND EXCHANGE COMMISSION,	: No. 06 CV 2621 (LTS)
Plaintiff,	· :
- against —	:
ANDREAS BADIAN, JACOB SPINNER, MOTTES DRILLMAN, JEFFREY "DANNY" GRAHAM, POND SECURITIES CORPORATION d/b/a/ POND EQUITIES, EZRA BIRNBAUM AND SHAYE HIRSCH,	
Defendants.	: :
	:
	X

DECLARATION OF JOSHUA S. SOHN IN SUPPORT OF DEFENDANT ANDREAS BADIAN'S OPPOSITION TO PLAINTIFF THE SECURITIES AND EXCHANGE COMMISSION'S MOTION IN LIMINE TO EXCLUDE THE PROPOSED EXPERT TESTIMONY OF DR. STEPHEN D. PROWSE AND TSVETAN N. BELORESHKI

JOSHUA S. SOHN, an attorney admitted to the practice of law in the State of New York, declares pursuant to 28 U.S.C. § 1746 as follows:

- 1. I am admitted to the Bar of this Court and am a partner at DLA Piper LLP (US), counsel for Defendant Andreas Badian. I submit this Declaration in support of Defendant Andreas Badian's opposition to Plaintiff the Securities and Exchange Commission's (the "SEC") motion *in limine* to exclude the proposed expert testimony of Dr. Stephen D. Prowse and Tsvetan N. Beloreshi, dated November 17, 2010.
- 2. Attached as Exhibit 1 is a true and correct copy of excerpts from *Introductory Econometrics: A Modern Approach* by Jeffrey M. Wooldridge, Second Edition (2003).

- 3. Attached as Exhibit 2 is a true and correct copy of the deposition transcript of Dr. Stephen D. Prowse, dated March 5, 2010.
- 4. Attached as Exhibit 3 is a true and correct copy of *Multiple Regression in Legal Proceedings* by Franklin M. Fisher, 80 Columbia Law Review 702 (May 1980).
- 5. Attached as Exhibit 4 is a true and correct copy of What Happened in Hazelwood: Statistics, Employment Discrimination, and the 80% Rule by Paul Meier, et al., American Bar Foundation Research Journal (1984).
- 6. Attached as Exhibit 5 is a true and correct copy of *Event Studies in Economics* and *Finance* by A. Craig MacKinlay, Journal of Economic Literature (March 1997).
- 7. Attached as Exhibit 6 is a true and correct copy of the Expert Report of Dr. Stephen D. Prowse and Tsvetan N. Beloreshki, dated November 24, 2009.
- 8. Attached as Exhibit 7 is a true and correct copy of the Sur-Rebuttal Expert Report of Dr. Stephen D. Prowse and Tsvetan N. Beloreshki, dated March 8, 2010.
- 9. Attached as Exhibit 8 is a true and correct copy of Short Selling and the News: A Preliminary Report on an Empirical Study by Merritt B. Fox, Lawrence R. Glosten and Paul Tetlock, Columbia Law School Working Paper No. 364 (March 26, 2010).
- 10. Attached as Exhibit 9 is a true and correct copy of *Unshackling Short Sellers: The Repeal of the Uuptick Rule* by Ekkehart Boehmer, Charles M. Jones and Xiaoyan Zhang, Presented at the Western Finance Association meetings (November 2008).
- 11. Attached as Exhibit 10 is a true and correct copy of *Shackling Short Sellers: The 2008 Shorting Ban* by Ekkehart Boehmer, Charles M. Jones and Xiaoyan Zhang, University of Michigan (November 18, 2008).

- 12. Attached as Exhibit 11 is a true and correct copy of *Does Algorithmic Trading Improve Liquidity?* by Terrence Hendershott, Charles M. Jones and Albert J. Menkveld, Journal of Finance (forthcoming).
- 13. Attached as Exhibit 12 is a true and correct copy of *Sixteenths: Direct Evidence* on *Institutional Execution Costs*, by Charles M. Jones and Marc L. Lipson, Journal Financial Economics (February 2000).
- 14. Attached as Exhibit 13 is a true and correct copy of *Market Microstructure: A Survey* by Ananth Madhavan, Journal of Financial Markets 3 (2000).
- 15. Attached as Exhibit 14 is a true and correct copy of *An Empirical Analysis of Illegal Insider Trading* by Lisa K. Meulbroek, Journal of Finance vol. 47, no. 5 (December 1992).
- 16. Attached as Exhibit 15 is a true and correct copy of excerpts from *Statistical Methods for Meta-Analysis* by Larry V. Hedges and Ingram Olkin, San Diego: Academic Press (1985).
- 17. Attached as Exhibit 16 is a true and correct copy of excerpts from A Guide to Econometrics by Peter Kennedy, The MIT Press (1998).
- 18. Attached as Exhibit 17 is a true and correct copy of *The Bonferonni and Šidák Corrections for Multiple Comparisons* by Herve Abdi, Encyclopedia of Measurement and Statistics (2007).
- 19. Attached as Exhibit 18 is a true and correct copy of the deposition transcript of Tsvetan N. Beloreshki, dated March 2, 2010.
- 20. Attached as Exhibit 19 is a true and correct copy of *Toxic Finance* by Tsvetan N. Beloreshki, *The Economist*, dated September 4, 2003.

21. Attached as Exhibit 20 is a true and correct copy of the SEC's Memorandum of Law In Support of its Motion *In Limine* To Exclude Badian's Experts Dr. Stephen D. Prowse and Tsvetan N. Beloreshki, excluding sections which referenced the SEC's Statement of Facts In Support of Its Two *Daubert* Motions *In Limine* or the Supplemental Report of Lawrence Glosten and Charles Jones. The Statement of Facts and Supplemental Report were stricken by the Court on December 1, 2010.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: New York, New York
December 6, 2010

/s/

Joshua S. Sohn
DLA PIPER LLP (US)
1251 Avenue of the Americas
New York, New York 10020-1104
(212) 335-4500

Attorneys for Defendant Andreas Badian